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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/713,256      | 11/17/2003  | Hiroyuki Hagihara    | Q64625              | 4774             |

23373 7590 04/28/2006

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EXAMINER

LE, HOA T

|          |              |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

1773

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/713,256

Applicant(s)

HAGIHARA ET AL.

Examiner

H. T. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6 and 8-14 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date July 2004.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### *Claim Rejections - 35 USC § 102*

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Miyoshi '914 patent (US 4,606,914).

Claims 1 and 2: Miyoshi '914 teaches cosmetic composition comprising inorganic pigments including zinc oxide coated with a metal salt of fatty acid. See col. 2, lines 29-34 and claim 5.

Claim 3: The pigments are disclosed as a component in a cosmetic composition; therefore, its average primary particle size must be less than 0.15 micron by the standard of the industry. In the alternative, it is known in the art that zinc oxide having primary particle size of less than 0.15 micron, it would appear transparent and have a good hiding power; otherwise, it would look whitish. Thus, it would have been obvious for one having ordinary skill in the art to select zinc oxide having primary particle size of less than 0.15 micron if whitish effect is not desired.<sup>1</sup>

Claims 4-6: See col. 2, lines 35-39 and col. 3, lines 32-34.

3. Claims 1-6 and 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Nagle patent (US 3,615,809) alone or in view of the combination of the teachings of the Nagle patent and the JP' 130 patent JP 05-171,130).

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<sup>1</sup> This fact is discussed in US 6,660,380 (Ishida et al) at col. 5, lines 30-40.

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Claims 1 & 2: The Nagle patent teaches method of coating metallic soap on surface of pigments to make the pigments suitable for colored thermoplastic polymers. See col. 1, lines 20-40. Although zinc oxide is not explicitly mentioned as the pigment, zinc oxide is widely used in the art as pigment or filler in thermoplastic polymer composition. Therefore, it would have been obvious for one of ordinary skill in the art to recognize that the pigment discussed in the Nagle patent includes zinc oxide. In the alternative, the JP '130 discloses that titanium oxide and zinc oxide are two most common pigments in thermoplastic composition. See JP '130, paragraph [0002]. Therefore, one having ordinary skill in the art would have found it obvious to utilize zinc oxide as pigment in the teaching of the Nagle patent.

Claim 3: Nagle teaches that pigments are used in a colored thermoplastic composition. One having ordinary skill in the art would have found it obvious to utilize particle having primary particle size less than 0.15 micron in order to prevent color interference with the desirable color intended for the colored thermoplastic composition because it's widely known in the art that zinc oxide particle with primary particle size larger than 0.15 micron has a whitish appearance. Furthermore, the JP'130 teaches zinc oxide having particles size of 0.1 micron or less (see paragraph [0009]) as desirable for transparency.

Claims 4-6: See Nagle, col. 1, lines 35-40 and col. 2, lines 15-21.

Claims 8, 9 and 11-14: See Nagle, col. 1, lines 19-50.

Claim 10: See Nagle, col. 2, lines 69-73 and JP'130, paragraphs [0009} and [0015}.

*Conclusion*

4. Applicant's arguments with respect to claims 1-6 and 8-14 have been considered but are moot in view of the new grounds of rejection set forth above.


5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



H. T. Le  
Primary Examiner  
Art Unit 1773

April 26, 2006